

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA
vs.
EDWIN RODRIGUEZ ET. AL.

FILED
2005 APR 25 P 2:03
U.S. DISTRICT COURT
DISTRICT OF MASS

Cr. 04-01671-NG

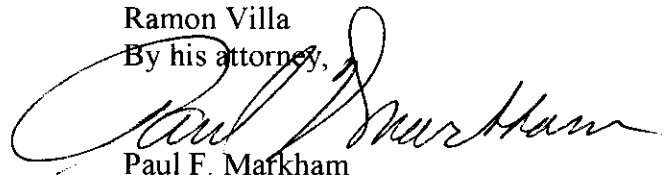
04-10160-WGY
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MEMORANDUM IN SUPPORT OF MOTION
TO STRIKE

A. The superseding indictment is identical to the original indictment in all respects except for the addition of the NOTICE OF ADDITIONAL FACTS. An indictment under Fed. R. Crim. R. Rule 7(c) (1) "shall be a plain, concise and definite written statement of the essential facts constituting the offense charged". It is submitted that the added NOTICE OF ADDITIONAL FACTS does not comply with the requirements of the rule in that it does not charge an "offense" and is therefore surplusage.

B. In the event the defendant pleads guilty to the indictment, his plea is an agreement to or acceptance of the penalty provided in USSG 3D1 (c) (7).

Respectfully submitted
Ramon Villa
By his attorney,



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CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of
the above document was served upon the
attorney of record for each party by mail / by hand.

Date:

4/22/05 